

**ORDINANCE 107
ORDINANCE REGULATING
SUBDIVISION AND LAND DEVELOPMENT**

107.1 DEFINITIONS

Definitions of words in this Ordinance are listed alphabetically in the Definitions Dictionary located at the beginning of the combined Ordinances of Delaware Township. These definitions are an integral part of the Ordinances of Delaware Township, which are incomplete without them.

107.2 PURPOSE

The purposes of this Ordinance are:

1. To provide rules and regulations that will contribute to well-planned development that conforms to the interests of residents and the general public and that protects and promotes public health, welfare, and safety.
2. To assist in carrying out the objectives and requirements of the Pennsylvania Municipalities Planning Code, as amended; the Pennsylvania Sewage Facilities Act, as amended, and all applicable regulations issued under said Act; and other applicable laws of the Commonwealth.
3. To help to insure that proper provisions will be made for roads, drainage, water management, sewage, and other improvements in subdivisions.

107.3 APPROVAL REQUIRED

No subdivision of land, land development, or development or improvement of a subdivision, shall occur except in accordance with the provisions of this Ordinance and unless approval for same, has been obtained pursuant to this Ordinance. Furthermore, no lot may be sold; nor any contract executed for the sale of same; no permit to erect, alter, or repair any building may be issued; and no building may be erected in any subdivision until the final subdivision plan has been approved and recorded with the Recorder of Deeds, Pike County, and until the improvements required by this Ordinance have been either completed or guaranteed as herein provided, except should a subdivision have been recorded by the Pike County Recorder of Deeds prior to the adoption of this Ordinance.

Subdivisions that include substandard lots approved more than five (5) years prior to the effective date of this Ordinance or amendment thereto shall be governed by Ordinance 110.12.E.1.

107.4 PROCEDURE FOR OBTAINING APPROVAL

A. Submission of plans. Developers shall submit all plans, completed application, fees, Letter of Intent, and all related information to the Planning Commission Secretary at least twenty (20) days before a regularly scheduled meeting, except for lot improvements, which shall be submitted at least seven (7) days prior to a regularly scheduled meeting. Once received, all of the information must be forwarded by the Planning Commission to the Township Engineer for review prior to the meeting. Note: Developers may meet informally with the Commission at a Regular Meeting to discuss prospective subdivisions and sketch plans.

B. Copies of plans. For preliminary plans and related information required by this Ordinance, ten (10) paper prints are required; for final plans and related information, ten (10) paper prints and one (1) Mylar reproducible are required.

C. Disposition of plans.

1. One (1) set of plans shall have been forwarded to the County Planning Commission for review by developer. No plan shall be approved until a report is received from the County Planning Commission or until forty-five (45) days have lapsed since the plans were sent to the County Planning Commission. In the aforementioned case the developer shall provide proof of the time limit expiration.

2. The Planning Commission shall not be required to accept for review an application, which is incomplete. That is, submissions that lack certain necessary elements, such as, but not limited to, an application, the appropriate filing fee; a subdivision or land development plan; road profiles; sewage modules; or plans for central water or sewage facilities. The applicant shall be given personally or shall have mailed to his or her last known address a statement in writing indicating the elements missing from the applicant's submission. The review of an incomplete submission by the Planning Commission shall not be construed as a waiver of the right to reject said incomplete submission. On all complete submissions, the Planning Commission shall recommend to the Board of Supervisors the approval, approval subject to modification, or rejection of each plan within sixty-five (65) days of its receipt.

3. The Planning Commission shall hold a public hearing before acting on any plan. It shall publish notice of the time, date, place, and purpose of the hearing for two (2) successive weeks in one (1) or more newspapers of general circulation in the Township. The first publication shall not be more than thirty (30) days nor less than seven (7) days before the date of the hearing. The cost of advertising for the public hearing shall be borne by the applicant.

4. The Board shall make its decision and deliver it to the applicant within ninety (90) days from the date of the Regular Meeting of the Planning Commission next following the date the application is filed; however, no more than thirty (30) days shall elapse between the date of filing and the beginning of the ninety (90) day period. The Board's decision shall be in writing and shall be delivered to applicants personally or mailed to them at their last known address not later than fifteen (15) days after the decision, but within the ninety (90) day limit. The decision shall be deemed mailed when postmarked.

5. When an application is not approved, the decision shall specify the defects found in it and describe the requirements that have not been met, and shall, in each case, cite the provisions of the Ordinance relied upon.

6. Failure of the Board to render a decision and deliver it to the applicant within the time and in the manner required herein shall be deemed approval of the application as presented, unless the applicant agrees in writing to an extension of time or change in the manner of communication of the decision, in which case, failure to comply with changes agreed to shall have like effect.

7. From the time any application is filed as provided in this Ordinance, and while such application is pending approval, no change or amendment of the Ordinance shall affect a decision about such application adversely to the applicant, and the applicant shall be entitled to a decision in accordance with the provisions that existed at the time the application was filed. In addition, when a preliminary application has been approved, the applicant shall be entitled to final approval in accordance with the terms of the approved preliminary application as hereinafter provided. However, if an application is properly and finally denied, any subsequent application shall be subject to any intervening changes in regulations. When any application has been approved, or approved subject to conditions acceptable to the applicant, no subsequent change or amendment in this Ordinance shall be applied to affect adversely the right of the applicant to begin and to complete any aspect of the approved development in accordance with the terms of such approval within five (5) years from the date of such approval. Where final approval is preceded by preliminary approval, the five (5) year period shall be counted from the date of the preliminary approval. In the case of any doubt as to the terms of the preliminary approval, the terms shall be construed in the light of the provisions of the Ordinance as they stood at the time when the application was filed.

8. Any approvals granted under this Ordinance shall in no way relieve sub-dividers from their responsibilities to any state or federal agencies, nor shall such approval be construed as binding or requiring the Township to obtain any necessary approvals to meet any requirements of said agencies. All costs incurred in obtaining compliance from any other agencies shall be borne by the sub-divider.

D. Preliminary plans.

1. After receiving approval of a preliminary plan, a sub-divider may begin the subdivision of lots and the laying out of facilities as described in the plan.

2. Within thirty (30) months after approval of a preliminary plan is received, the sub-divider must submit a final plan to the Board of Supervisors. Otherwise, the approval of the preliminary plan will become null and void unless an extension of time is granted by the Board.

3. If construction in a subdivision will exceed five (5) years, then a schedule setting forth deadlines for final approval of the various sections in the subdivision must accompany the preliminary plan. This schedule must be updated

annually until final approval is obtained. Any modification of the schedule is subject to approval by the Board.

E. Final plans.

1. A sub-divider may submit a final plan in stages, each to consist of at least a section of the proposed subdivision as shown on the approved preliminary plan.

2. When a final plan is received, the Planning Commission shall make an on-site inspection of all major subdivisions and may do so if it wishes for minor subdivisions to evaluate the general conditions and suitability of the site. Prior to the on-site inspection, the centerline of all roads shall be marked on the ground by the sub-divider, who shall provide a guide for the inspection team. If, as a result of this inspection, additional information and testing is required, all costs incidental thereto shall be at the sub-divider's expense.

3. Approval shall be indicated by a statement to that effect on the plan of record, with the signature of any two (2) members of the Planning Commission, the signature of the reviewing engineer, if any, and the signature of a majority of the Board of Supervisors.

4. After a plan has been approved and recorded, all streets, public grounds, and other improvements shall become part of the official map of the Township without public hearing. However, any such streets or improvements shall be deemed to be private streets or improvements until they have been offered for dedication to the Township and accepted by the Township, or until they have been condemned for use as a public street, park, or other improvement.

F. Recording of final plan.

Within ninety (90) days of the approval of a final plan, a sub-divider must record the plan in the office of the Recorder of Deeds of Pike County. Should the sub-divider fail to do so, approval of the plan by the Township shall be null and void. The Recorder of Deeds shall not accept any plan for recording unless it notes officially the approval of the Township as prescribed herein.

107.5 FEES

Fees required under the provisions of this Ordinance shall be set from time to time by resolution of the Board of Supervisors, along with a procedure for collecting them. No application shall be considered filed until all fees are paid. Application fees for both preliminary and final plans and inspection fees for either or both are required by this Ordinance.

107.6 PLAN REQUIREMENTS

A. General.

1. All plans shall be clear, legible, white prints, in one of the following sheet sizes and with a two inch (2") margins on each page as indicated below:

12 by 18 inches	margin on top side (18 inch side)
18 by 24 inches	margin on left (18 inch side)
24 by 36 inches	margin on top side (36 inch side)

There shall be a margin of at least one inch (1") along the remaining three (3) sides of each page.

2. Plans shall be drawn to the scales listed below. However, if all courses, metes, bounds, and other information cannot be legibly and accurately presented using these guidelines, then a more ample scale shall be substituted. The scale used shall be indicated on all plans.

<u>Size of one half or more of lots shown</u>	<u>Scale-Number of feet per one (1") inch</u>
2 acres	100
2+ to 10 acres	200
10+ to 50 acres	400
more than 50 acres	1000

3. The subdivision may be shown by section on two (2) or more sheets when necessary.

4. All of the information required for either preliminary or final plans, below (B and C), shall be set forth on a complete and comprehensive plan for each section or block of each subdivision, except as otherwise required.

B. Preliminary plan.

1. Name of owner.
2. Name of developer, if different than owner.
3. Name of the subdivision and designation to be used for each section or block.

4. The boundary lines, bearings, distances, and total acreage of the subdivision. If it is only part of a tract of land owned by the applicant, the following shall also be shown:

- a. The total acreage of the tract owned.
- b. The boundary lines, bearings, and distances for the entire tract.
- c. The location of the subdivision within the entire tract.

5. The name of the municipality in which the subdivision is located, together with the municipal boundary lines if it is located in more than one (1) municipality.

6. The names of abutting property owners and/or adjoining subdivisions, and the map book and page where each such subdivision is recorded.

7. A location map at a scale of not less than two thousand feet (2000') to one inch (1"), showing the relation of the subdivision to adjoining property and to all roads and municipal boundaries within four thousand feet (4000') of any part of the property to be subdivided. The latest U.S.G.S. Quadrangle Map may be used even though its scale may differ from that above.

8. The number of lots proposed in each section or block. All lots shall be numbered in consecutive order.

9. For each lot: proposed lot lines; approximate dimensions; minimum setback, designated by a line; and, for corner lots, driveway access points.

10. The location, width, and purpose of all existing or proposed easements or rights of way.

11. The location, acreage, and boundary lines of all lakes, ponds, or other bodies of water; common areas; recreational facilities and buildings; and other important features.

12. The location and right of way width of any road that abuts or provides access to the subdivision and the sections thereof.

13. The location and width of existing or proposed road rights of way in the subdivision, and the lengths and names of roads. A typical cross section and center line profile for proposed roads shall be provided on a separate sheet.

14. The designs of any bridges or culverts within the subdivision.

15. The type of water supply and the method of sewage disposal to be used.

a. When a subdivision will not be served by a public water supply, the sub-divider shall prove that other potable water sources are available. This proof may be in the form of logs from test wells or from existing, professionally drilled wells, or from other appropriate geological data.

b. The developer shall prepare a planning module for land development and any other data required by the Pennsylvania Department of Environmental Protection (DEP) that will be used to revise the Official Sewage Plan of the Township. When on-lot sewage disposal is proposed, a minimum of one (1) soil profile evaluation shall be made in each soil type mapped by the Soil Conservation Service. A minimum of one (1) soil profile per twenty-five (25) acres shall be evaluated. Compliance with the above shall be at the developer's expense. The developer shall be required to provide proof of approval of said planning module by the DEP or, in the alternative, satisfactory evidence that the statutory period for rejection by DEP has passed without such rejection. In the event that such proof is not submitted to the Township prior to final approval, such failure shall constitute grounds for disapproval of the plans.

16. A plan for surface drainage for each section or block of the subdivision, to include all existing or proposed water courses, lakes, swampy areas, areas subject to periodic flooding, rock outcroppings, etc. The plan must also comply with Ordinance 102.

17. Contours at vertical intervals of no more than twenty (20') feet. Transfer from U.S.G.S. Quadrangles will suffice.

18. Date of submission.

19. North arrow, indicating whether the meridian is magnetic or true; if magnetic, year of meridian must be shown.

20. Name of designer and registered engineer or surveyor responsible for the plan.

21. A true and correct copy of the fully executed deed or deeds in recordable form necessary to prove ownership of the parcel(s).

C. Final plan.

Final plan sheets shall be numbered consecutively (e.g.: Sheet __ of __), and shall be bound neatly on the left. The first or title sheet shall contain an approval block for the use of Township reviewing bodies. Final plans shall include the following, as well as all other information required for preliminary plans:

1. The total acreage of the subdivision and the total combined acreage of all lots and common areas.

2. The density of the subdivision if every lot were occupied (see 107.8.G.3.).

3. The location of all water and sewage lines if there is a central water or central sewage disposal system, together with the location of the water source and location of any sewage treatment facility.
4. All areas reserved by the applicant, which areas shall not be included as common areas or in any calculation of density.
5. All easements that will encumber or affect the subdivision or the lots therein, including without limitation, easements for central water systems, central sewerage systems, storm water drainage, and water courses. (For additional requirements about these items, see Section 107.9.).
6. Data acceptable to the Township engineer to determine the location, bearing, and length of every street line, lot line, and boundary line, and to reproduce such lines upon the ground. This must include one (1) closed and balanced field survey with an error not to exceed one (1) in five thousand (5000). All dimensions shall be shown in feet and hundredths of a foot, and bearings to ten (10) seconds of an arc.
7. The locations of permanent reference monuments (see section 107.9).
8. A typical street cross section and complete centerline profile showing finished centerline grades at one hundred foot (100') stations.
9. A drainage and storm water drainage plan with standard construction details.
10. All proposed deed restrictions and protective and restrictive covenants.
11. The designation of any lot that will be used for other than single-family dwellings.
12. All subdivisions comprised of fifty (50) or more lots or units shall provide one (1) or more school bus access area, as provided in Ordinance 104, "Ordinance Regulating School Bus Access Areas to be Dedicated to the Township", which is incorporated herein by reference. Such school bus access areas shall be located at each public entrance to said subdivisions, or at other location(s) on the borders of the subdivision that will satisfy the needs of the school population in the subdivision, meet the standards of Ordinance 104, and not provide additional vehicular access to any road in the subdivision.
13. The Applicant must submit proposed covenants, easements, restrictions, maintenance procedures, and manner of ownership of common space to be imposed upon the real property in subdivision or land development. Said proposed covenants shall be approved by the Township only if they are in compliance with the Township's Comprehensive Plan and current land use regulations or form the basis for the revision of same by the Township.

D. Lot improvement subdivisions.

Lot improvement subdivisions, wherein a parcel of land is added to an existing approved or nonconforming lot for the purposes of increasing the size of said lot or where a number of small lots are re-subdivided or re-allotted so as to make a lesser number of larger lots or where the boundary line or lines between two (2) or more lots are relocated without changing the size of the effected lots, are permitted under the provisions of this Ordinance, provided that:

1. The grantor's remaining lands comply in all respects with the provisions of this Ordinance, and,
2. The plan shall be submitted to the Planning Commission for approval and signature in accordance with the lot improvement checklist which may be amended from time to time by the Board of Supervisors or Delaware Township Planning Commission, which is incorporated herein by reference. In addition, the plan shall meet the following minimum standards:
 - a. Identification of all subject lots as they existed prior to the lot improvement. All lots must be shown, regardless of size.
 - b. Identification of all lots created by the lot improvement.
 - c. Dotted lines where existing lot lines will be eliminated.
 - d. All existing improvements including, but not limited to, buildings, structures, roads, driveways, walls, outbuildings, ancillary facilities, wells and sewage or septic systems shall be shown. If there are no improvements, the parcel(s) shall be labeled "UNIMPROVED".
 - e. A statement that all resulting parcels may not be further subdivided without Township approval.
 - f. A statement that any resulting or remaining land comply in all respects with the provision of this Ordinance.
 - g. Signature blocks for the signature of the Planning Commission and Board of Supervisors.
 - h. Identification and address of the property owner, the date of submission and sufficient information to locate the parcel accurately.
 - i. Name, license number, seal and signature of the Pennsylvania registered/certified surveyor or engineer who prepared the plan.
3. The Applicant shall submit an original and one (1) copy of the deed describing the newly combined lots, which shall be fully executed in recordable form showing metes and bounds. In

addition, the Applicant shall submit for review copies of the existing recorded deed to verify ownership of the property being combined.

E. Additional review fees.

After submission of the plans to the Planning Commission, they may be referred to the Township Engineer for review as to compliance with the appropriate standards. The cost of such initial review shall be borne by the Township. In the event that further review is required because of the failure of the plans to meet the appropriate standards initially, the cost of any further review by the Township Engineer shall be borne by the applicant. The fee for same shall be pursuant to a schedule approved by the Township and shall be paid prior to any action of the revised plans. Failure to pay the fee for review will constitute sufficient grounds to deny approval of the revised plans.

107.7 CONDITIONS FOR FINAL APPROVAL, SECURITY GUARANTEES IN LIEU OF COMPLETION, RELEASE FROM GUARANTEES, AND REMEDIES TO EFFECT COMPLETION OF IMPROVEMENTS

A. Conditions for final approval; Security guarantees in lieu of completion.

1. No final plan shall be approved unless the roads shown have been improved and any other improvements required by this Ordinance have been completed (see Section 107.9).

2. In lieu of the completion of any improvements required as a condition for final approval, a developer may provide the Township with security in a form acceptable to the Township, in an amount equal to one hundred ten percent (110%) of the cost of the improvements.

a. The cost shall be determined by submission to the Township of bona fide bids from the contractors chosen by the developer to complete the improvements. In the absence of such bids, the cost shall be estimated by the Township Engineer.

b. The security shall be held in a place designated by the Board of Supervisors in accordance with a development agreement executed by the Board and the applicant. The agreement shall establish the completion dates for the improvements.

c. If more than one (1) year from the date of the posting of the financial security to complete the required improvements is necessary for their completion, then the developer shall post an additional ten percent (10%) for each one (1) year period beyond the first anniversary date from the posting of the financial security unless the cost of completion of the required improvements is reestablished by the expiration date of the aforementioned one (1) year period, in which event the developer shall post said security in an amount equal to one hundred ten percent (110%) of the cost of the completion of the same.

d. As the improvements are being installed, the developer may request the Township to release portions of the security needed to pay the contractors doing the work however, the Township may not release any part of the deposit if doing so would cause its amount to fall below one hundred ten percent (110%) of the cost of the completion of the remaining improvements.

1. Requests for the release of security deposits must be made in writing to the Board of Supervisors and presented at a scheduled Regular Meeting.

2. The Board shall, within forty-five (45) days from the receipt of a request, direct the Township engineer to inspect that portion of the work that has been completed and certify to the Board, in writing, that the amount requested represents the value of the improvements completed. If the Township fails to act within the forty-five (45) day period, then it shall be deemed to have approved the release of the funds requested.

3. Any plans requiring the guarantee of the completion of improvements as described herein shall be accompanied by a completion agreement prepared by the applicant or his or her attorney, and same shall be promptly referred to the Township Solicitor for review. The cost of such initial review shall be borne by the Township. In the event that further review is required because of the failure of the agreement to meet the appropriate standards initially, the cost of any further review by the Township Solicitor shall be borne by the applicant. The fee for same shall be pursuant to a schedule approved by the Township and shall be paid prior to any action on the submission. Failure to pay the fee for review will constitute sufficient grounds to deny approval of the submission.

B. Final release from guarantees.

1. The developer shall notify the Board, in writing, by certified or registered mail, of the completion of the required improvements, and shall send a copy to the Township engineer. The Board shall, within forty-five (45) days of the receipt of such notification, direct the Township engineer to inspect the improvements and certify that they have been completed in accordance with the designs and specifications set forth in the application and development agreement.

2. Within the forty-five (45) day period, the Board, at a Regular or Special Meeting, shall approve, approve in part, or disapprove the required improvements, and shall notify the applicant of its action by certified or registered mail. The reasons for the Board's decision must be included.

3. If the Board approves the improvements, or fails to act within the time limit, all improvements shall be deemed to have been approved and the developer shall be released from all liability and entitled to the return of any remaining security deposit.

4. If any part of the improvements is not approved by the Board, the developer shall complete them in conformity with this Ordinance, and upon completion, the procedure of notification outlined above shall be repeated.

5. These provisions for the release from guarantees shall not affect the Township's ability to require the posting of the security set forth in Section A.

C. Remedies to effect completion of improvements.

1. If any required improvements have not been completed as provided in this Ordinance, or in accordance with the approved final plan, the Board may use security deposits to pay the cost of making repairs or corrections to all of the improvements covered by the deposits. If such funds are insufficient, the Board may, at its option, but not its obligation, complete part of the improvements in all or part of the subdivision, and may institute appropriate legal or equitable action to recover the amount needed to complete the improvements, including all costs and reasonable attorney's fees. The security deposit and the proceeds of any legal or equitable action brought against the developer, shall be used solely for the completion of the required improvements.

2. If a default occurs, as described in Paragraph C.1., above, then all prior approvals of any sections or blocks of the subdivision for which the required improvements have not been completed shall become null and void and of no further effect, and no further sale of any lots located within the subdivision shall occur. Notice of any action taken by the Board with regard to this provision shall be provided to the Recorder of Deeds in and for Pike County and the Board of Supervisors of the Township shall have the right to enforce this provision through injunction relief, which relief shall include an award of all costs and reasonable attorney's fees.

107.8 GENERAL PLANNING REQUIREMENTS

A. Minimum requirements.

The design standards and requirements set forth in this Ordinance shall be observed as minimums by the subdivider, and will be applied by the Planning Commission in evaluating plans for all proposed subdivisions.

B. Applicability of official plan.

Subdivisions shall conform to any official map or development plan adopted by the Township.

C. Total acreage committed to use.

All portions of a tract being subdivided shall be taken up in lots, roads, common areas, or other proposed uses so that remnants and landlocked areas are not created.

D. Limitation on reserved or common areas.

Reserved or common areas less than ten feet (10') in width controlling access to lots, public rights of way, public lands, or private lands are prohibited.

E. Lot lines and municipal boundary lines.

Lot lines shall follow municipal boundary lines rather than cross them.

F. Lot sizes.

1. All lots shall conform to the following minimum standards:

Area	2 acres
Width	200 feet
Average depth	300 feet
Front yard setback	40 feet
Side yard setback	25 feet
Rear yard setback	25 feet

2. The dimensions and areas listed above, except the lot width shall be measured from the road right of way line.

3. Access from public or private roads through a subdivision lot to the buildable portion of that subdivision lot shall not be by means of a strip of land one hundred fifty feet (150') or less in width for a depth of less than one hundred feet (100').

4. When subsurface sewage disposal is proposed, there must be sufficient suitable soil on each lot for the installation of a disposal system.

G. Density.

A subdivision shall include no more than ninety-five percent (95%) usable land and no less than five percent (5%) common area (see Ordinance 110).

H. Areas subject to flooding.

Any area within a subdivision known to be subject to flooding shall be clearly marked "Subject to Periodic Flooding" on the lot plan and shall not be plotted in lots and roads. The area shall be treated in accordance with Ordinance 102, "Ordinance Regulating Construction or Development in Areas Subject to Flooding", and applicable state and federal laws, rules, and regulations.

I. Land development.

All land development projects having to do with the improvement of one (1) lot or two (2) or more contiguous lots, tracts, or parcels of land for any purpose, involving:

- a. A group of two (2) or more buildings, or

b. The division or allocation of land or space between two (2) or more existing or prospective occupants by means of, or for the purpose of, streets, common areas, leaseholds, condominiums, building groups, or other features, whether or not they are also Conditional Uses under the provisions of Ordinance 110 (Ordinance Regulating Zoning and Land Use), shall be subject to the requirements of Ordinance 110, which are incorporated herein by reference.

J. Sewage Feasibility Study Revision and Amendments.

Whenever any submission under this Ordinance requires the submission of a Component I and/or Component II to the DEP pursuant to the Sewage Facilities Act, said Components shall first be submitted to the Township SEO for approval together with a review fee established by the Board of Supervisors. Whenever any submission under this Ordinance requires a revision to the Township's Sewage Facilities Study, said proposed revision shall first be submitted to the Board of Supervisors for review together with an application and a review fee established by the Board of Supervisors. In the event that more than one (1) review of the documentation by the Township Engineer or Solicitor is required, an additional review fee will be required prior to that review.

K. Large lot subdivisions.

In any subdivision in which all lots, without exceptions, are ten (10) acres or larger, the road construction requirements for any required access roads are modified as set forth herein:

1. Road standards:

a. Dimensions

Right of way	50 feet
Travelway	16 feet
Cartway	20 feet

b. Base and surface or travelway, either:

(1) A six inch (6") compacted depth sub-base course consisting of crushed stone or gravel and a two inch (2") compacted depth surface course of Penn DOT 2A crushed aggregate, or

(2) An eight inch (8") thick compacted depth sub-base course of Penn DOT 2A crushed aggregate.

c. All other road standards, including shoulder construction requirements, of Ordinance 106.

2. Restrictions:

a. All lots are restricted to single family residential use and restrictive covenants, irrevocable and enforceable by the Township. Shall be recorded to enforce this restriction.

b. The cluster development provisions of the Zoning Ordinance and the provisions of the Planned Residential Development Ordinance shall not apply to such a submission regardless of the site of any lot.

c. At the time that any of the lots so created are further subdivided so as to reduce the size of any lot to less than ten (10) acres, any access road or road constructed or to be constructed within the subdivision must be improved in accordance with the standards for subdivision generally.

d. *No roads within any subdivision as defined within this subsection shall be offered for dedication to the Township.*

e. ***Proposed covenants and restrictions along with any other documents associated with the formation of a Property Owners Association (POA). Such documents shall, at a minimum, require that all property owners be members and pay dues assessed thereby for the maintenance of the roads and other common areas. The restriction shall also address responsibilities of lot purchasers for management of common property.***

L. Wetland subdivision.

In the event that state regulations require the inclusion of a wetland delineation on the subdivision plan for any purpose, the plan shall contain the following notation:

THE DELINEATION OF WETLANDS ON THIS PLAN IS NOT APPROVED NOR CERTIFIED BY DELAWARE TOWNSHIP. ANY DELINEATION IS SUBJECT TO APPROVAL BY THE APPROPRIATE STATE AND FEDERAL AGENCIES.

M. Minor subdivision.

A minor subdivision shall include no more than five (5) lots. The parcel from which all such lots are subdivided must have been in existence, in the same exact dimensions, as of July 1, 1991 to be eligible under this section. A minor subdivision shall be subject to the same regulations as all other subdivision and land development created under this Ordinance, except as follows:

1. Lot size: Each lot shall not be less than two (2) acres in size.
2. Road standards:
 - a. Dimensions

Right of way	33 feet
Travelway	16 feet
Cartway	20 feet

b. The total length of roadway in the subdivision shall not exceed one thousand two hundred feet (1200') nor service more than the five (5) lots permitted herein.

c. Base of the travelway shall be either:

(1) A six inch (6") compacted depth sub base course consisting of crushed stone or gravel and a two inch (2") compacted depth course of Penn DOT 2A crushed aggregate, or

(2) An eight inch (8") thick depth sub base course of Penn DOT 2A crushed aggregate.

d. The surface course shall consist of bituminous prime coat applied at .25 gallons per square yard of MC-30 followed by a bituminous surface treatment consisting of the following: 0.4 gallons per square yard of E-2 or E-3 bituminous material and 40 lbs. No. 67 coarse aggregate per square yard rolled with a rubber tire roller. Then .35 gallons per square yard of E-2 or E-3 bituminous material, 20 lbs. per square yard #8 course aggregate rolled with a rubber tire roller.

e. The cluster provisions and PRD provisions of the Township Ordinances shall not apply to any subdivision created hereunder regardless of the size of any lots therein.

f. ***No road within any subdivision as defined within this subsection shall be offered for dedication to the Township.***

g. The subdivision shall be subject to restrictive covenants enforceable by the Township which shall be subject to approval by the Township and which shall, at a minimum, provide for the following:

(1) Restriction of lots to use as one family residence.

(2) No lots can be further subdivided.

(3) No additional access points to public roads can be established beyond the access provided by the private road set forth herein. No lot shall gain access to public roads by means other than over the private road described herein.

(4) A system of the equitable sharing of maintenance costs of the road and other common facilities shall be set forth.

107.9 REQUIRED IMPROVEMENTS

A. Monuments and markers.

1. Monuments must be set at all corners and angle points of the boundaries of a tract to be subdivided, except where a permanent monument already exists. They must include points of tangency and points of curve, must extend thirty inches (30") below ground or to solid rock, and must be of the following type (or type approved of as equal quality):

- a. Two inch (2") by thirty-six inch (36") galvanized iron pipe, filled with concrete.
- b. Thirty-six inch (36") railroad rail.
- c. Three-quarter inch (3/4") diameter brass pin, grouted four inches (4") into rock.

2. Markers must be set at all corners of each lot prior to final approval, must extend a minimum of twelve inches (12") above the ground, and must be of the following type:

- a. Solid steel pins, one-half inch (1/2") in diameter and thirty inches (30") long.
- b. Steel pipe, three-quarters of an inch (3/4") in diameter and thirty inches (30") long.

B. Water systems.

1. If lots are to be serviced by other than on-site, individual wells, then the developer shall submit as part of the final plan:

- a. A map showing the location of all wells, pumping stations, accessory buildings, and water lines (except those on and servicing individual lots).
- b. A permit from the Pennsylvania Department of Environmental Protection and any other governmental agency having jurisdiction approving, inter alia, the location, construction, and installation of the system and the quality and treatment of the water derived from it. (It is the intention of this provision that the developer shall comply with the rules and regulations of Chapter 109, "Safe Drinking Water Regulations", as the same shall be amended from time to time.)
- c. A Certificate of Convenience from the Pennsylvania Public Utilities Commission, unless the system is to be owned and operated by a bona fide property owners association, in which event the developer shall advise the Township in writing of the actual date of transfer of the system to the association, which transfer shall be a condition of final approval.
- d. Acceptable security for the construction and installation of the system (see Section 107.7).

2. If lots are sold prior to the installation of the water system, the developer shall give written notice to purchasers, as part of the agreement of sale, that buildings cannot be occupied until the system is completed.

3. All central water systems shall be designed for and provide for fire flow, and shall be equipped with the fire department stand pipes.

C. Centralized sewage disposal systems. (Also see Ordinance 202)

1. If lots are to be serviced by other than on-lot septic systems, then the developer shall submit as part of the final plan:

a. A map, showing the locations of the sewage treatment facility, pumping stations, accessory buildings, and all sewage lines (except those on and servicing lots).

b. A permit from the Pennsylvania Department of Environmental Resources, and any other governmental agency having jurisdiction, approving the nature, construction, installation, and location of the lines and treatment facility.

c. A Certificate of Convenience from the Pennsylvania Public Utilities Commission, unless the system is to be owned and operated by a bona fide property owners association, in which event the developer shall advise the Township in writing of the actual date of transfer of the system to the association, which transfer shall be a condition of final approval.

d. Acceptable security for the construction and installation of the system (see Section 107.7).

2. If lots are sold prior to the installation of the sewage system, the developer shall give written notice to purchasers, as part of the agreement of sale, that buildings cannot be occupied until the system is completed and operable.

3. The developer shall bear the cost of any revisions to the Official Sewage Plan required by the Department of Environmental Protection.

D. Road systems and storm drainage.

Subdivisions shall be developed in conformity with the construction standards of Ordinance 106, "Ordinance Regulating the Construction, Opening, and Dedication of Roads, and the Construction of Drainage Facilities", which are incorporated herein by reference, and the Storm Water Management Act of Pennsylvania, the terms of which are incorporated herein by reference and shall meet the requirements of any ordinance adopted by the Township in the future based on the Storm Water Management Act or for the regulation of road construction and/or storm water management.

E. Inspection.

Inspection of required improvements shall be accomplished in accordance with Section 107.7 of this Ordinance.

F. Common facilities.

1. There shall be provisions that insure that the common facilities, such as sewage and water systems, shall be properly maintained. The developer shall either:

a. Retain ownership and responsibility for maintenance of such facilities, or

b. Provide for and establish one (1) or more organizations for the ownership and maintenance of all common facilities.

2. Restrictive covenants shall require the payment of assessments for maintenance of common facilities and provide for the filing of liens if they are not paid.

3. If a property owners association is formed, it shall be governed according to the following regulations:

a. It must be organized by the developer and must operate with financial subsidization by the developer, if necessary, before any sale of any lots in the subdivision or land development.

b. It shall have or hire adequate staff to administer common facilities and to maintain the common open space.

c. It shall be responsible for maintenance of and insurance and taxes on common facilities and open space.

d. Membership shall be mandatory for all purchasers of lots or dwelling units in the subdivision, and their successors.

e. The members shall share equitably in the costs of maintaining and developing the common facilities, in accordance with procedures established by them.

107.10 VARIANCES

The Zoning Hearing Board shall have the power to authorize such variances from this Ordinance as are permitted under the Municipalities Planning Code. All applications for variances shall be initiated by the filing of an application for same with the Planning Commission. The application shall include the section or sections of the Ordinance from which the variance is requested an exact description of the variance requested and the reasons for the variance, including comments about the standards as hereinafter provided, together with such maps, drawings, or other plans that the applicant may provide to describe the request.

Upon receipt, the Planning Commission shall immediately forward a copy of the application to the Township Solicitor, the Board of Supervisors, and the Township Engineer. The Planning Commission shall review the application at its next Regularly Scheduled Meeting, or at such Special Meetings as it may choose to call, and forward a report and recommendation thereon to the Zoning Hearing Board.

The Zoning Hearing Board may grant a variance provided that the following findings are made where relevant in a given case:

1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that an unnecessary hardship is due to such conditions, and not circumstances or conditions generally created by the provisions of the Ordinance
2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Ordinance and that the authorization of a variance is, therefore, necessary to enable the reasonable use of the property
3. That such unnecessary hardship has not been created by appellant.
4. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

In granting any variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance and of the Zoning Ordinance.

107.11 CONFLICT OF ORDINANCE WITH STATE LAW

If any part of this Ordinance conflicts with, or if the Ordinance is silent about, pertinent provisions of the Pennsylvania Municipalities Planning Code the Pennsylvania Flood Management Act the Pennsylvania Storm Water Management Act the Pennsylvania Sewage Facilities Act Title 25: Rules and Regulations of the Department of Environmental Resources, Chapter 71, "Administration of Sewage Facilities Program", and Chapter 73, "Standards of Sewage Disposal Facilities", the provisions of these state laws, rules, and regulations shall prevail and apply, and until such provisions are complied with, no subdivision will be approved.

107.12 PENALTY

Any person (or member if a partnership, or officer if a corporation, or agent of any of them) who, as owner or agent of any parcel of land, lays out, constructs, opens, or dedicates any road, sanitary sewer, storm sewer, water main, or other improvement for public use, travel, or other purpose, or for the common use of occupants of buildings abutting thereon, unless and until a preliminary approval of the plat has been given in full compliance with the provisions of these regulations, or who sells, transfers, or agrees or enters into an agreement, to sell any land in a subdivision or development, whether by reference to or by other use of a plat of such subdivision or development, or erects any building thereon, unless or until a final plat prepared in full compliance with the provisions of these regulations has been approved and recorded pursuant to Section 107.4 hereof, or who violates any other provisions of this Ordinance, shall be guilty of a misdemeanor, and upon conviction thereof, pay a fine not exceeding one thousand dollars (\$1000.00) per lot or parcel or per dwelling within each lot or parcel, or per each separate offense, whichever may be greater. Each day's continuance of each violation shall constitute a separate offense. All fines collected for such violations shall be paid to: Delaware Township. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the seller or transferee from such penalties or from the remedies herein provided.